

REMARKS

This responds to the Office Action mailed on August 29, 2005, and the references cited therewith.

Claims 1, 11, 22, 32 and 68 are amended, no claims are canceled or added; as a result, claims 1-2, 4-5, 11-13, 19-20, 22-23, 25-26, 32-34, 40-41, 64, 68, 78 and 91-92 remain pending in this application. The amendments to claims 1, 11, 22, 32 and 68 correct minor typographical errors and are not in response to an art-based rejection. As a result, the amendments are not believed to be narrowing amendments.

§101 Rejection of the Claims

Claims 1, 11, 22, 32, and 64 were rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter. In particular, the Office Action states that the language of the claims “raises a question as to whether the claim is directed merely to an abstract idea that is not tied to a technological environment or machine which would result in a practical application producing a concrete, useful and tangible result...” Thus the Office Action appears to apply a “technological arts” test to the claims. Applicant respectfully traverses the rejection.

The Board of Patent Appeals recently stated that there is no judicially recognized separate “technological arts” test to determine patent eligible subject matter under Section 101. *Ex parte Carl A. Lundgren*, Appeal No. 2003-2088, October 18, 2005. Instead, the test the Examiner must use with respect to Section 101 is whether the claim as a whole produces a useful, concrete and tangible result. It has long been established that software implementations including programs and codes embodied in a computer media are inventions that are entitled to patent protection and thus are considered patentable subject matter. (*In re Alappat*, 33 F.3d 1526 (Fed. Cir. 1994) (*en banc*)). In fact, if a claimed invention as a whole produces a useful concrete and tangible result, then the invention is patentable. (*State Street Bank & Trust v. Signature Financial Group*, 149 F.3d 1368 (Fed. Cir. 1998).

Clearly the claims produce a “useful, concrete and tangible result.” Providing a cross-reference and in indicating the cross-reference in a browser is clearly useful to a software developer. Further, the display of the cross-reference in a code browser is a concrete and

tangible result of the method. Similarly, displaying a program slice browser that indicates semantic abstraction is also a useful, concrete and tangible result. In view of the above, Applicant respectfully submits that claims 1, 11, 22, 32, and 64 are directed to statutory subject matter and requests reconsideration and the withdrawal of the rejection of claims 1, 11, 22, 32, and 64 under 35 U.S.C. § 101.

§112 Rejection of the Claims

Claims 1 and 22 were rejected under 35 U.S.C. § 112, second paragraph, for indefiniteness. Claims 1 and 22 have been amended as suggested in the Office Action to clarify that “BLAST” is an acronym for “Block-Level Abstract Syntax Tree”. Applicant respectfully submits that the amendments to clarify claims 1 and 22 overcome the rejection under 35 U.S.C. § 112 and requests reconsideration and withdrawal of the rejection.

§103 Rejection of the Claims

Claims 1-2, 4-5, 11-13, 19-20, 22-23, 25-26, 32-34, 40-41, 64, 68, 78 and 91-92 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Clark (U.S. Patent No. 5,297,150), and further in view of Dollin et al. (U.S. Patent No. 6,594,783) and Jacobson (U.S. Patent No. 5,317,511). In order for the Examiner to establish a *prima facie* case of obviousness, three base criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *M.P.E.P.* § 2142 (citing *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed.Cir. 1991)). Applicant respectfully submits that a *prima facie* case of obviousness does not exist with respect to the claims because the claims contain elements not found in the cited references.

For example, claims 1 and 22 recite “determining a cross-reference between the program slice diagram, a control block in the one or more control blocks, and a subset of the source code.” The Office Action admits that neither Clark nor Dollin disclose the recited language.

However, the Office Action goes on to state that Jacobson in the Abstract, FIG. 1, and at column 7, lines 10-36 teaches the recited language. Applicant respectfully disagrees with this interpretation of Jacobson. Jacobsen teaches the creation of a cross-reference for a source program. As stated at column 4, lines 60-64, a “viewer reads through the source program and constructs a cross-reference containing the locations of all the definitions and references in the source program.” As is clear from the above, and from the further details provided later in Jacobson, Jacobson teaches building a cross-reference for a source program. Nowhere does Jacobson teach or suggest determining a cross-reference between the program slice diagram, a control block in the one or more control blocks, and a subset of the source code as recited in Applicant’s claims 1 and 22. As a result, the combination of Clark, Dollin and Jacobson fails to teach or disclose each and every element of claims 1 and 22. Therefore the claims 1 and 22 are non-obvious with respect to the combination. Applicant respectfully requests reconsideration and the withdrawal of the rejection of claims 1 and 22.

Claims 2, 4-5 and 19 depend either directly or indirectly from claim 1. Claims 23, 25-26 and 40 depend either directly or indirectly from claim 22. These dependent claims inherit the elements of the respective base claims and add further patentable distinctions. They are therefore non-obvious for at least the reasons discussed above with respect to claims 1 and 22. Applicant respectfully requests reconsideration and the withdrawal of the rejection of claims 2, 4-5, 19, 23, 25-26 and 40.

A further example of an element not found in the combination of Clark, Dollin and Jacobson is found in claims 11 and 32, each of which recite “performing semantic abstraction to group a subset of nodes together based on the semantic information.” Applicant’s specification, at page 11, lines 14-19 provides a description of both syntactic and semantic abstraction. As stated in the specification:

A syntactic abstraction allows the user to collapse into a single node, several nodes corresponding to one or more blocks of BLAST viewer 264. A semantic abstraction allows the user to collapse into a single node, several nodes corresponding to a logical category of computations. (emphasis added).

Further details on semantic abstraction are provided throughout the specification.

Thus as is clear from the above, Dollin at best discloses what Applicant's specification refers to as syntactic abstraction. In fact, the cited section of Dollin refers specifically to an abstract syntax tree. Dollin does not teach or suggest semantic abstraction as the term is used in Applicant's specification. Additionally, the Office Action admits that Clark does not teach or suggest semantic abstraction. Further, the Office Action does not provide any reference to semantic abstraction in Jacobson. Applicant has reviewed Jacobson and can find no teaching or suggestion of performing semantic abstraction. As a result, the combination of Clark, Dollin and Jacobson fails to teach or suggest semantic abstraction and thus fails to teach each and every element of Applicant's claims 11 and 32. Applicant respectfully requests reconsideration and the withdrawal of the rejection of claims 11 and 32.

Claims 12-13 and 20 depend from claim 11. Claims 33-34, and 41 depend from claim 32. These dependent claims inherit the elements of the respective base claims and add further patentable distinctions. They are therefore non-obvious for at least the reasons discussed above with respect to claims 11 and 32. Applicant respectfully requests reconsideration and the withdrawal of the rejection of claims 12-13, 20, 33-34 and 41.

Claim 64 recites "a controller that cross-references information between the code browser, the block-level abstract syntax tree viewer, the program slice browser, and the template viewer." The Office Action admits that neither Clark nor Dollin disclose a cross-reference between the code browser, the block-level abstract syntax tree viewer, the program slice browser, and the template viewer. However, the Office Action goes on to state that Jacobson, in the Abstract, FIG. 1 and at column 7, lines 10-36 discloses the recited language. As discussed above with respect to claims 1 and 22, Jacobson merely discloses a cross-reference within a source program. Jacobson does not teach or suggest a cross-reference between a code browser, a block-level abstract syntax tree viewer, a program slice browser, and a template viewer. Thus Jacobson, like Clark and Dollin fails to teach or suggest each and every element of claim 64. As a result, the combination of Clark, Dollin and Jacobson does not render claim 64 obvious. Applicant respectfully requests reconsideration and the withdrawal of the rejection of claim 64.

Claims 68, 78, 91 and 92 depend either directly or indirectly from claim 64. These dependent claims inherit the elements of the respective base claims and add further patentable distinctions. They are therefore non-obvious for at least the reasons discussed above with

respect to claim 64. Applicant respectfully requests reconsideration and the withdrawal of the rejection of claims 68, 78, 91 and 92.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 373-6954 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

SURAJ C. KOTHARI ET AL.

By their Representatives,

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. Box 2938
Minneapolis, MN 55402
(612) 373-6954

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By /Rodney L. Lacy/
Rodney L. Lacy
Reg. No. 41,136

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